

Part III - Administrative, Procedural, and Miscellaneous

Creditability of Mexican Single Rate Business Tax

Notice 2008-3

The Internal Revenue Service (IRS) and the Treasury Department are evaluating the *impuesto empresarial a tasa única* (IETU), a single rate business tax recently adopted by Mexico effective January 1, 2008, to determine whether it is a creditable income tax under Article 24(1) (Relief from Double Taxation) of the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the Treaty).

Article 24(1) of the Treaty generally provides that the United States will allow a credit for income tax paid to Mexico by or on behalf of a U.S. resident. The taxes in paragraphs 3 and 4 of Article 2 (Taxes Covered by the Convention) of the Treaty are treated as income taxes for purposes of Article 24(1) and are therefore eligible for a credit. In the case of Mexico, these taxes are the income tax imposed by Mexico's Income Tax Law and any substantially similar taxes imposed in addition to, or in place of, the taxes listed in paragraph 3 of Article 2 after September 18, 1992, the date the Treaty was signed.

The IRS and the Treasury Department believe that the provisions, design, and

full operation of the IETU, including its interaction with Mexico's regular income tax, require study to determine whether the IETU is a creditable income tax. In view of the responsibility of the IRS to administer U.S. tax laws and treaties, pending the conclusion of this study, the IRS will not challenge a taxpayer's position that the IETU is an income tax that is eligible for a credit under Article 24(1) of the Treaty. This Notice is effective for the IETU paid or accrued on or after January 1, 2008. Any change in the foreign tax credit treatment of the IETU as a result of the study will be prospective, and apply solely to the IETU paid or accrued in taxable years beginning after the date that further guidance is issued.

DRAFTING INFORMATION

Various personnel from the IRS and the Treasury Department participated in the development of this Notice. For further information regarding this Notice, contact Nina E. Chowdhry of the Office of Associate Chief Counsel (International) at (202) 622-3880 (not a toll-free call).